

**AMENDMENT TO THE
JOINT POWERS AGREEMENT
FOR E-911 COMMUNICATIONS**
(Revised June 23, 1999)

This agreement is effective upon approval of the State Department of Finance and Administration between **THE CITY OF ESPAÑOLA, THE VILLAGE OF CHAMA, PUEBLO OF SAN JUAN, THE JICARILLA APACHE TRIBE, THE COUNTY OF RIO ARRIBA, AND THE COUNTY OF SANTA FE** ("the parties") pursuant to the Joint Powers Agreement Act, NMSA 1978 11-1-1, et seq., as amended.

RECITAL

WHEREAS, the parties desire to establish and provide a centralized enhanced 911 system and improve public emergency and law enforcement services to their citizens;

WHEREAS, the parties within their respective jurisdiction may incur costs for the purchase or lease, installation and maintenance of equipment necessary for the establishment of a E-911 system at public safety answering points and may pay such costs through disbursements from the enhanced 911 fund pursuant to NMSA 1978 63-9D-4; and necessary network and database funds in amounts approved by the State Board of Finance NMSA 1978 63-9D-4.

NOW, THEREFORE, in consideration of the premises, terms, covenants and conditions herein, the parties agree as follows:

I. GENERAL PROVISIONS

- A. Pursuant to the New Mexico Enhanced 911 Act ("Act"), NMSA 1978 63-9D-4(B) the Española/Rio Arriba E-911 Communications Center ("District") is formed as a separate legal entity, for the express purpose of exercising the powers conferred upon local governing bodies by the Act. The District shall oversee operations of enhanced 911 service within the District boundaries and act as the vehicle through which the parties receive funding pursuant to the Act. The District boundaries will contain the City limits of Española and Dulce, the Jicarilla Apache Reservation, the San Juan Pueblo Reservation, the Village of Chama, the County of Rio Arriba, and parts of North Santa Fe County.

II. BOARD OF DIRECTORS

- A. The District shall be controlled by a Board of representatives from each of the parties. The Board will be identified as the Espanola/Rio Arriba County Emergency Communications 911 Board (Board) and shall consist of:

- (1) Two members from the City of Española that are appointed by the City's Governing Body.

Exhibit "A"

- (2) Two members from Rio Arriba County that are appointed by the County's Governing Body.
 - (3) One member from Santa Fe County that is appointed by the County's Governing Body.
 - (4) One member from Jicarilla Apache Tribe that is appointed by the Tribal Council.
 - (5) One member from the New Mexico State Police – Espanola District.
 - (6) One member from the Village of Chama that is appointed by the Village Governing Body.
 - (7) One member from San Juan Pueblo that is appointed by the Tribal Council.
- B. Each Board member (except as provided herein) in good standing shall have one vote and cannot vote by proxy. A majority of the members shall constitute a quorum and a majority vote shall decide any issue.
- (1) To be in good standing, a party must be up-to-date with quarterly payments as discussed in Section IV (D) of this agreement.
 - (2) Any party who is not in good standing may have a seat on the Board but shall not have a vote until the party's contributions are current.
 - (3) The Jicarilla Apache Tribe member shall be considered an ex-officio member except for those issues directly related to E-911 funding available through the Department of Finance and Administration, Local Government Division.
 - (4) The New Mexico State Police member shall be considered an ex-officio member.
- C. At its first meeting, the Board shall elect a chairperson, a secretary, and other officers, as the Board shall require. Officers shall remain voting members of the Board. The terms of each Board Member shall be at the discretion of each entity. All Board Members are eligible for re-appointment at the discretion of each entity.
- D. As soon as practicable the Board shall notify The Department of Finance and Administration, Local Government Division ("DFA/LGD") and the local exchange telephone company providing local exchange service to the 911 service area of:
1. the boundaries of the District; and
 2. the cost to the board to purchase, lease, install and maintain the equipment necessary to provide 911 emergency services in the 911 service area pursuant to 63-9D-5 of the Act.
- E. The Board shall create such committees as it deems necessary.
- F. The Board shall conduct its meeting in accordance with Robert's Rules of Order.

- G. The Board shall conduct the affairs of the District and shall adopt such bylaws and rules as it deems reasonable and necessary to conduct the affairs of the District, including specific provisions for the hiring and training of all E-911 personnel working for the District.
- H. The Board will make monthly reports to the parties and will make recommendations to The DFA/LGD regarding the future development of emergency communications within the District.
- I. To the degree allowed by law, the District shall defend and indemnify Board members against any claim or liability arising from their actions or omissions taken in good faith and performed in the course and scope of their duties under this Agreement.
- J. The Emergency Medical Dispatch (EMD) Medical Director shall serve in an advisory capacity to the Espanola/Rio Arriba E-911 Board of Directors.

III. POWERS OF THE DISTRICT

- A. The District shall have the power, by direction of its Board, to:
 - 1. Establish and operate an enhanced 911 communications center to provide emergency and law enforcement communications within the District boundaries;
 - 2. Exercise all rights and powers granted to a "local governing body" under the E-911 Act;
 - 3. Contract for the installation and operation of an enhanced 911 system and other emergency and law enforcement communications equipment;
 - 4. Direct the fiscal agent to pay for equipment, software, installations of equipment and software, and all related maintenance and support services, by means of lease, purchase or lease purchase;
 - 5. File an application with the DFA/LGD requesting approval for disbursement from the 911 fund and the network and database fund pursuant to 63-9D-5 of the Act.
 - 6. Hire a Director to manage the day-to-day operations of the enhanced 911 service including appointment, discipline, supervision and evaluation of staff subject to the approval of the Board.
 - 7. Develop and adopt personnel procedures, including grievance procedures, for all E-911 personnel working for the District;
 - 8. Direct the fiscal agent to pay all E-911 personnel working for the District.

9. Recover from the enhanced 911 fund and the network and database fund an amount necessary to recover the costs of purchasing, leasing, installing and maintaining of equipment and the costs of developing and maintaining a network database necessary to provide a 911 emergency system in the District pursuant to 63-9D-6A of the Act.
 10. Administer the "911 Emergency Surcharge" and the "Local 911 Surcharge" as provided by the Act; and
 11. Do any act reasonable and necessary to provide effective and efficient emergency and law enforcement communications, including, but not limited to, contracting with equipment vendors and service suppliers to obtain the benefit of technological developments which the Board deems necessary to improve or enhance the quality and efficiency of service to be provided hereunder.
- B. The Board must use money received from the enhanced 911 fund solely to pay enhanced 911 equipment costs and associated installation and maintenance costs necessary for enhanced 911 services and must use money received from the Local 911 Surcharge solely to pay for the network capability and database for the enhanced 911 system.
 - C. The Board shall not sell, lease, or make available for duplication or use by any person, utility, or business (other than to the telephone services providing the enhanced 911 network) any rural addressing system and data base information provided to the District by any other parties, without the express written permission of that party.

IV. BUDGET AND OPERATING COSTS

- A. The City of Española shall act as fiscal agent for the District on behalf of the parties. As the fiscal agent, the City of Española shall manage all revenues, maintain all accounts and receive and disburse all funds on behalf of the District and at the direction of the Board. The fiscal agent may receive reasonable compensation for its time and expense in fulfilling the duties required herein. Such compensation shall be approved by the Board and shall not exceed one percent (1%) of the District's operating budget.
- B. The funds of the District shall be held by the fiscal agent in one or more separate accounts and shall not be co-mingled with funds of any of the parties to this Agreement. Money received by the District from the Local 911 Surcharge must be credited to separate cash funds, apart from the general fund from the District, for network and database payments pursuant to 62-9D-9B of the Act. All contributions of the parties shall be deposited directly in the District's general fund.
- C. The Board shall formulate and adopt an annual budget necessary to implement and carry out the goals of this Agreement. The adopted budget shall then be delivered to each party's respective governing body for their approval no later than ninety days before the end of each fiscal year. The budget shall specify which expenses the Board expects to pay with funds from the Act and which expenses it expects to pay with funds from the parties. Any expenses, less the \$5,000 from the Jicarilla Apache Tribe, not covered by the Act's fund shall be borne by the parties from their general fund revenues by applying the following percentages below:

	% Per Existing Agreement	Amended % with Santa Fe County Full Participation	% Per Amended Agreement
City of Española	38%	42.0%	46.5%
Village of Chama	6%	2.0%	2.0%
Jicarilla Apache Tribe	6%	-0-	-0-
Rio Arriba County	38%	42.0%	46.5%
Santa Fe County	12%	12.0%	3.0%
San Juan Pueblo		2.0%	2.0%
Total Budget	100%	100.0%	100.0%

Jicarilla Apache Tribe - \$5,000.00, per amended agreement.

1. Members agree that the percentages contained in the current JPA will remain in effect until June 30, 1999 as follows:
 2. Santa Fe County agrees to contribute its share of twelve percent (12%) until such time as the calls in northern Santa Fe County, as determined by the County, are transferred to the City of Santa Fe Dispatch center. At that point, Santa Fe County will contribute three percent (3%) as agreed by all participating members.
 3. All budget increases must be approved by the Board and submitted to each party's governing body for their approval.
 4. If a majority of the parties governing bodies approves the annual budget or any budget increase(s), the annual budget or any budget increase is adopted.
 5. In the event that any party decides to withdraw pursuant to section VII of this agreement, such party's contribution percentage shall be divided according to the percentages listed in Section IV (C).
- D. The contribution required to be paid quarterly by each party shall be paid to the District in July 1, October 1, January 1 and April 1 of each year.
- E. No party to this agreement has a duty to pay any debt or other obligation incurred by the District unless there is specific undertaking to do so and an appropriation is approved by the relevant governing body in accordance with law.
- F. The District shall maintain correct and adequate accounts of its funds, properties and business transactions, which accounts shall be open to inspection at any reasonable times by the parties hereto, or their accountants or agents. There shall be strict accountability for all receipts and disbursements relating hereto.

- G. Within ninety days after the end of each fiscal year, the District shall prepare and present to the parties a comprehensive annual report of the District's activities and financing during the preceding year.
- H. The District shall have its books audited annually by an independent auditor approved by the State Auditor.

V. EQUIPMENT

- A. The parties shall consolidate their communications center equipment in the consolidated communications center facility. All of the consolidated equipment and all communication center equipment subsequently installed in the consolidated communication center facility shall remain in the facility should any of the parties choose to cease its participation in the communications system.
- B. In addition to Paragraph A of this Section, both Rio Arriba County and New Mexico State Police District Seven shall receive basic E-911 equipment to enable each to operate as a backup PSAP should E-911 have a major shutdown.
- C. Each entity shall be responsible for acquiring, maintaining and replacing its own mobile and in-house equipment used to communicate with the communications facility not covered by 911 surcharge.

VI. INSURANCE

The District shall purchase and maintain comprehensive general liability insurance and errors and omissions insurance. The District shall be allowed to pool or consolidate insurance with any entity.

VII. TERMINATION AND WITHDRAWAL

- A. Any party to this agreement may, at any time after providing thirty (30) days written notice to the Board, withdraw from this agreement.
- B. This Agreement may be terminated and the District dissolved upon approval by the majority of the governing bodies whom are signatories to this agreement.
- C. Upon termination of this Agreement, any surplus money and/or property acquired from funding paid by the members shall be returned to the parties, which are signatories to this agreement at the time of termination, in proportion to the contributions made.
- D. Property acquired through the Local Government Division, Department of Finance & Administration (DFA) shall be disbursed according to the requirements of DFA.

VIII. IMMUNITY

No provision of this Agreement shall be construed to waive the immunity provided under the New Mexico Tort Claim Act, NMSA 1978 41-4-1 et seq., or any other provision of the law. Nothing in this Agreement shall be construed to waive the immunity of the Pueblo of San Juan or be construed as authorizing the extension of state law on Pueblo lands or other lands subject to the jurisdiction of the Pueblo of San Juan.

IX. NO THIRD PARTY BENEFICIARIES

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of a party of this Agreement to create in the public, or any member thereof, a third party beneficiary or to authorize or grant standing to anyone not a party to this agreement to sue for any form of legal or equitable relief.

X. APPROVAL OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION

This Agreement is subject to the approval of the secretary of the Department of Finance and Administration pursuant to the Joint Powers Agreement Act, NMSA 1978, 11-1-1 to 11-1-7 (1994 Rep. Pam.) and shall not become valid and binding upon the parties until such approval has been made.

XI. LEASE

This Agreement is contingent on a lease of the facility from the City of Española and Rio Arriba County to the District under terms acceptable to the Board.

XII. SEVERABILITY

If any portion of this Agreement is found to be unlawful, the remaining portions shall remain effective, provided that the fundamental purpose of the Agreement is served.

XIII. AMENDMENTS

Any amendments to this Agreement will be by consensus of the existing parties to this Agreement subject to approval by the Department of Finance and Administration.

ATTEST:

By:

Dee Dee Pacheco
City Clerk

CITY OF ESPAÑOLA

By:

Its:

Mayor
VILLAGE OF CHAMA

ATTEST:

By: Victoria Gonzales

By: Ron Smith

Its: MAYOR

Contingent upon the village's ability to fund the share allotted to us thru final budgetary process.

JICARILLA APACHE TRIBE

By: [Signature]

Its: Acting President

ATTEST:

By: Corinne Puerto

PUEBLO OF SAN JUAN

By: Governor Anthony

Its: Governor San Juan Pueblo

ATTEST:

By: Nancy Ortiz

COUNTY OF RIO ARRIBA

By: Gregory Montoya

Its: County Commission Chairman

ATTEST:

By: [Signature]

By: Maria Elena Rodas